

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE SALAZAR,

Plaintiff,

v.

TIZOC LANDEROS,
JAMES VOUDRIE, THOMAS BANAS,
SERGEANT NUNN (STAR #41), and CITY
OF JOLIET,

Defendants.

JUDGE RONALD GUZMAN

No. 04C 1825

MAGISTRATE JUDGE ASHMAN

REC'D

MAR 10 2004

COMPLAINT AT LAW

NOW COMES the Plaintiff, by and through the LAW OFFICES OF BLAKE
HORWITZ, pursuant to Complaint at Law, against the above named Defendants, to wit TIZOC
LANDEROS, JAMES VOUDRIE, THOMAS BANAS, and SERGEANT NUNN (STAR #41)
(hereinafter, the "DEFENDANT OFFICERS") and the CITY OF JOLIET and states as follows:

JURISDICTION

1. The jurisdiction of the court is invoked pursuant to the Civil Rights Act, 42 U.S.C. §
1981 and §1983; the Judicial Code, 28 U.S.C. §1331 and §1343(a); the Constitution of the
United States; and this Court's supplementary jurisdiction powers.

PARTIES

2. Plaintiff, JOSE SALAZAR is a resident of the County of Cook and State of Illinois, and a
citizen of the United States.

3. The DEFENDANT OFFICERS were at all times material and relevant hereto officers of
the Joliet Police Department.

FACTUAL ALLEGATIONS

4. On March 21, 2002, the DEFENDANT OFFICERS struck the Plaintiff and used an unreasonable amount of force onto the body of the Plaintiff.
5. On March 21, 2002, the Plaintiff did not resist arrest and/or batter either of the DEFENDANT OFFICERS.
6. On March 21, 2002, the Plaintiff did not obstruct justice, resist arrest and/or assault any of the DEFENDANT OFFICERS.
7. The use of force initiated by the DEFENDANT OFFICERS and the failure to intervene in the use of said force, caused an excessive amount of force to be inflicted onto the body of the Plaintiff. Said force was unreasonable and unnecessary.
8. The Plaintiff was arrested by the DEFENDANT OFFICERS notwithstanding the fact that the Plaintiff, on said day, had not committed an act contrary to the laws of the State of Illinois. Further, the DEFENDANT OFFICERS failed to witness the Plaintiff commit an illegal act of any sort.
9. Notwithstanding the above, the DEFENDANT OFFICERS drafted a police report which indicated that Plaintiff resisted or obstructed a peace officer.
10. The charges lodged in the police report were false, fraudulent and submitted by the DEFENDANT OFFICERS under false pretenses. Said charges were designed to cause criminal litigation to be lodged against the Plaintiff without probable cause and/or any legal cause, given that said charges were devoid of any legal basis *ab initio*. Further, the DEFENDANT OFFICERS withheld information from the Will County State's Attorney as to the true facts that unfolded on March 21, 2002, when they arrested the Plaintiff.

11. As a direct and proximate result of one or more of the aforesaid acts or omissions of the Defendants, Plaintiff was caused to suffer serious and permanent personal injury, pain, suffering and mental anguish both now and in the future.

12. On or about March 21, 2002, the DEFENDANT OFFICERS were on duty at all times relevant to this complaint, duly appointed and sworn police officers for the CITY OF JOLIET. The DEFENDANT OFFICERS engaged in the conduct complained of, on said date, in the course and scope of their employment and while they were on duty. The DEFENDANT OFFICERS are sued in their individual capacity.

13. It is the custom, practice and policy of police officers and/or their supervisors/agents and/or other employees of the CITY OF JOLIET to perform the following acts and/or omissions in connection with excessive force complaints that are directed at Joliet police officers:

- a. Supervisory individuals from the CITY OF JOLIET fail to properly discipline CITY OF JOLIET police officers that have committed an act of excessive force upon another;
- b. Supervisory individuals from the CITY OF JOLIET fail to properly investigate a complaint of excessive force perpetrated by a CITY OF JOLIET Police Officer, upon another;
- c. Supervisory individuals from the CITY OF JOLIET fail to take proper remedial action against a CITY OF JOLIET police officer once it is determined that he/she has committed an act of excessive force upon another.

14. This practice and/or custom, as alleged above, has gone unchecked and been allowed to exist in the CITY OF JOLIET for a significant period of time, so much so, that police officers for the CITY OF JOLIET recognize that they will not be punished for committing said acts and that, in fact, said acts are either permitted or quietly consented to by superior officers of the CITY OF JOLIET in order to permit said conduct to re-occur.

15. The CITY OF JOLIET is a duly incorporated municipal corporation and is the employer and principal of the DEFENDANT OFFICERS as well as the other officers referred to in this Complaint, as indicated in the *Monell* claim alleged herein. At all times material to this complaint, the DEFENDANT OFFICERS were acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the CITY OF JOLIET.

16. The CITY OF JOLIET by and through the Joliet Police Department, has retained the Joliet Chief of Police for the municipality that controls the area where the Plaintiff was arrested. Said Chief is aware of the excessive and unreasonable force that the police officers for that municipality exercise in connection with civilians. The CITY OF JOLIET, knowing this activity to occur, has failed to take any action to correct the situation, namely, discipline and/or terminate the Chief of Police that controls the municipality and/or area in question.

COUNT I
§1983 False Arrest

17. Plaintiff re-alleges paragraphs 1 – 11 as though fully set forth herein.

18. The DEFENDANT OFFICERS arrested Plaintiff without probable cause to believe that Plaintiff had committed criminal activity. The DEFENDANT OFFICERS' conduct was in violation of the Fourth Amendment to the United States Constitution.

19. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the Constitutional violations set forth above.

WHEREFORE, Plaintiff demands compensatory damages against the DEFENDANT OFFICERS, punitive damages, costs and attorney's fees. Plaintiff also demands whatever additional relief this Court deems equitable and just.

COUNT II
Malicious Prosecution - State Claim

20. Plaintiff re-alleges paragraphs 2-11 as though fully set forth herein.

21. The DEFENDANT OFFICERS alleged that Plaintiff had violated the laws of the State of Illinois. These allegations commenced or continued a criminal proceeding against the Plaintiff.

22. The DEFENDANT OFFICERS did so without probable cause.

23. The aforementioned actions were the direct and proximate cause of the violations of Illinois State Law, as set forth above.

WHEREFORE, Plaintiff demands compensatory damages against the DEFENDANT OFFICERS, punitive damages, costs and whatever additional relief this Court deems equitable and just.

COUNT III
False Arrest – State Claim

24. Plaintiff re-alleges paragraphs 2-11 as though fully set forth herein.

25. The DEFENDANT OFFICERS arrested Plaintiff without probable cause to believe that Plaintiff had committed criminal activity. The DEFENDANT OFFICERS' conduct was in violation of the Constitution to the State of Illinois as well as Illinois Common law.

26. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the violations set forth above.

WHEREFORE, Plaintiff demands compensatory damages against the DEFENDANT OFFICERS, punitive damages and costs. Plaintiff also demands whatever additional relief this Court deems equitable and just.

COUNT IV –Monell

27. Plaintiff re-alleges paragraphs 1-16 as though fully set forth herein.

WHEREFORE, Plaintiff demands compensatory damages against the CITY OF JOLIET, costs and attorney's fees. Plaintiff also demands whatever additional relief this Court deems equitable and just.

COUNT V
Negligent retention against the CITY OF JOLIET

28. Plaintiff re-alleges paragraphs 2-16 as though fully set forth herein.

29. The CITY OF JOLIET has continued to retain said Chief of Police, notwithstanding the dereliction of duty and practice said Chief has established of allowing illegal arrests to take place, false police reports to be lodged and innocent civilians to become arrested.

WHEREFORE, Plaintiff demands compensatory damages against the CITY OF JOLIET, costs and attorney's fees. Plaintiff also demands whatever additional relief this Court deems equitable and just.

COUNT VI
745 ILCS 10/9-102 Claim Against the CITY OF JOLIET

30. Plaintiff re-alleges paragraphs 2-16 as though fully set forth herein.

31. Defendant CITY OF JOLIET is the employer of the DEFENDANT OFFICERS alleged above.

32. The DEFENDANT OFFICERS as alleged above, committed the acts under color of law and in the scope of their employment as employees for the CITY OF JOLIET.

WHEREFORE, should DEFENDANT OFFICERS be found liable for the acts alleged in paragraph 2-11 above, Plaintiff demands that, pursuant to 745 ILCS 10/9-102, the CITY OF JOLIET pay them any judgment obtained against said DEFENDANT OFFICERS as a result of this complaint.

COUNT VII
Supplementary Claim for *Respondeat Superior*

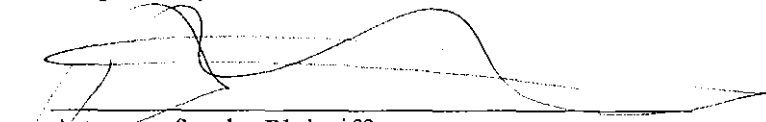
33. Plaintiff re-alleges paragraphs 2-16 as if re-alleged herein.

34. The aforesaid acts of the DEFENDANT OFFICERS were in the scope of their employment as police officers and therefore the Defendant CITY OF JOLIET, as principal, is liable for the actions of its agents under the doctrine of *respondeat superior*.

WHEREFORE Plaintiff demands judgment against Defendant CITY OF JOLIET and such other additional relief, as this Court deems equitable and just.

Plaintiff Demands Trial by Jury.

Respectfully Submitted.



Attorney for the Plaintiff
Blake Horwitz

THE LAW OFFICES OF BLAKE HORWITZ

Blake Horwitz, Esq.
Amanda Yarusso, Esq.
Patrick Casey, Esq.
155 N. Michigan, #714
Chicago, IL 60601
(312) 616-4433

ORIGINAL
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JUDGE RONALD GUZMAN
MAGISTRATE JUDGE ASHMAN

Civil Cover Sheet 04C 1825

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): JOSE SALAZAR

**Defendant(s): TIZOC LANDEROS, JAMES
VOUDRIE, THOMAS BANAS, SERGEANT
NUNN (STAR #41), and CITY OF JOLIET,**

County of Residence: Cook

County of Residence:

Plaintiff's Atty:

Defendant's Atty:

**LAW OFFICES OF BLAKE
HORWITZ
155 N. Michigan, Suite 714,
Chicago IL 60601
(312) 616-4433**

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

**III. Citizenship of Principal
Parties (Diversity Cases Only)**

**Plaintiff:- 1 Citizen of This State
Defendant:- 1 Citizen of This State**

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

440 Other Civil Rights

VI. Cause of Action:

42 U.S.C. 1983, Excessive Force & False Arrest

VII. Requested in Complaint

**Class Action: No
Dollar Demand:
Jury Demand: Yes**

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature:

Date:

9 March 2004

ORIGINAL**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS****JUDGE RONALD GUZMAN
MAGISTRATE JUDGE ASHMAN**

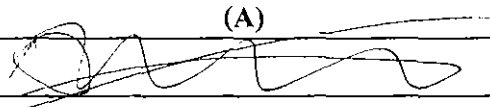
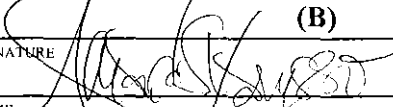
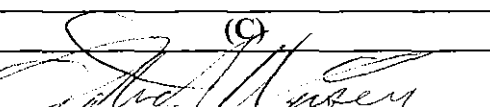
In the Matter of

EASTERN DIVISION

JOSE SALAZAR v.
TIZOC LANDEROS, JAMES VOUDRIES, THOMAS
BANAS, SERGEANT NUNN (STAR #41), and CITY OF
JOLIET.

Case Number:

04C 1825APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR
PLAINTIFF

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME Blake W. Horwitz		NAME Amanda S. Yarusso	
FIRM LAW OFFICES OF BLAKE HORWITZ		FIRM LAW OFFICES OF BLAKE HORWITZ	
STREET ADDRESS 155. N. Michigan, Suite 714		STREET ADDRESS 155. N. Michigan, Suite 714	
CITY/STATE/ZIP Chicago IL 60601		CITY/STATE/ZIP Chicago IL 60601	
TELEPHONE NUMBER (312) 616-4433	FAX NUMBER (312) 565-7173	TELEPHONE NUMBER (312) 616-4433	FAX NUMBER (312) 565-7173
E-MAIL ADDRESS horwitzlaw@att.net		E-MAIL ADDRESS horwitzlaw@att.net	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6200803		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6280031	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE 		SIGNATURE	
NAME Patrick A. Casey		NAME	
FIRM LAW OFFICES OF BLAKE HORWITZ		FIRM	
STREET ADDRESS 155. N. Michigan, Suite 714		STREET ADDRESS	
CITY/STATE/ZIP Chicago IL 60601		CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 616-4433	FAX NUMBER (312) 565-7173	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS horwitzlaw@att.net		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6274677		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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